

PATENT COOPERATION TREATY

From the
INTERNATIONAL PRELIMINARY EXAMINING AUTHORITY

Mail Recd 30 JUL 2004 ARNO processed by <u>1.21</u> on <u>30.07.04</u> Action <u>29-09-04</u>

To:

Davies Collison Cave
GPO Box 3876
SYDNEY NSW 2001

PCT WRITTEN OPINION (PCT Rule 66)

Date of mailing
(day/month/year) **29 JUL 2004**

Applicant's or agent's file reference
12184581

REPLY DUE within **TWO MONTHS**
from the above date of mailing

International Application No.
PCT/AU2003/001565

International Filing Date (day/month/year)
21 November 2003

Priority Date (day/month/year)
25 November 2002

International Patent Classification (IPC) or both national classification and IPC
Int. Cl. ⁷ F16L 3/10

Applicant
VSL PRESTRESSING (AUST) PTY LTD et al

1. This written opinion is the **first** drawn by this International Preliminary Examining Authority.
2. This opinion contains indications relating to the following items:

I	<input checked="" type="checkbox"/>	Basis of the opinion
II	<input type="checkbox"/>	Priority
III	<input type="checkbox"/>	Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
IV	<input type="checkbox"/>	Lack of unity of invention
V	<input checked="" type="checkbox"/>	Reasoned statement under Rule 66.2(a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
VI	<input type="checkbox"/>	Certain documents cited
VII	<input type="checkbox"/>	Certain defects in the international application
VIII	<input type="checkbox"/>	Certain observations on the international application
3. The **FINAL DATE** by which the international preliminary examination report must be established according to Rule 69.2 is:
25 March 2005

The applicant is hereby invited to reply to this opinion.

When? See the **Reply Due** date indicated above. However, the Australian Patent Office will not establish the Report before the earlier of (i) a response being filed, or (ii) one month before the **Final Date** by which the international preliminary examination report must be established. The Report will take into account any response (including amendments) filed before the Report is established. **If no response is filed by 1 month before the Final Date**, the international preliminary examination report will be established on the basis of this opinion.

Applicants wishing to have the benefit of a further opinion (if needed) before the report is established should ensure that a response is filed at least **3 months before the Final Date** by which the international preliminary examination report must be established.

How? By submitting a written reply, accompanied, where appropriate, by amendments, according to Rule 66.3. For the form and the language of the amendments, see Rules 66.8 and 66.9.

Also For an additional opportunity to submit amendments, see Rule 66.4. For the examiner's obligation to consider amendments and/or arguments, see Rule 66.4bis. For an informal communication with the examiner, see Rule 66.6.

Name and mailing address of the IPEA/AU
AUSTRALIAN PATENT OFFICE
PO BOX 200, WODEN ACT 2606, AUSTRALIA
E-mail address: pct@ipaaustralia.gov.au
Facsimile No. (02) 6285 3929

Authorized Officer

BAYER MITROVIC
Telephone No. (02) 6283 2164

I. Basis of the opinion**1. With regard to the elements of the international application:***

- ☒ the international application as originally filed.
- ☐ the description, pages , as originally filed,
pages , filed with the demand,
pages , received on with the letter of
- ☐ the claims, pages , as originally filed,
pages , as amended under Article 19,
pages , filed with the demand,
pages , received on with the letter of
- ☐ the drawings, pages , as originally filed,
pages , filed with the demand,
pages , received on with the letter of
- ☐ the sequence listing part of the description:
pages , as originally filed
pages , filed with the demand
pages , received on with the letter of

2. With regard to the language, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.

These elements were available or furnished to this Authority in the following language which is:

- ☐ the language of a translation furnished for the purposes of international search (under Rule 23.1(b)).
- ☐ the language of publication of the international application (under Rule 48.3(b)).
- ☐ the language of the translation furnished for the purposes of international preliminary examination (under Rules 55.2 and/or 55.3).

3. With regard to any nucleotide and/or amino acid sequence disclosed in the international application, the written opinion was drawn on the basis of the sequence listing:

- ☐ contained in the international application in printed form.
- ☐ filed together with the international application in computer readable form.
- ☐ furnished subsequently to this Authority in written form.
- ☐ furnished subsequently to this Authority in computer readable form.
- ☐ The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.
- ☐ The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.

4. ☐ The amendments have resulted in the cancellation of:

- ☐ the description, pages
- ☐ the claims, Nos.
- ☐ the drawings, sheets/fig.

5. ☐ This opinion has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).

** Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this opinion as "originally filed"*

BEST AVAILABLE COPY

V. Reasoned statement under Rule 66.2(a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Claims 8, 11, 12	YES
	Claims 1-7, 9, 10	NO
Inventive step (IS)	Claims	YES
	Claims 1-12	NO
Industrial applicability (IA)	Claims 1-12	YES
	Claims	NO

2. Citations and explanations

The following documents identified in the International Search Report have been considered for the purposes of this report:

D1: US 6431216
D2: US 2002/0100517
D3: US 6407338
D4: US 6250406
D5: WO 2000/002296
D6: FR 2660332
D7: DE 4113375
D8: EP 173350
D9: DE 2736084

Document D1 discloses a protective tube assembly for protecting cylindrical structures such as pipes, cables, tubes and the like. It has a pair of sections or segment which when assembled form a tube, having a cylindrical cross-section. The two sections have mating surfaces, whereby one of the sections has a tongue, while the other has a cooperating groove. One of the section has a locking member in the form of the protrusion to resist longitudinal movement of the sections when assembled. The protection assembly can be made from an insulating material to provide electrical protection around transmission lines (column 7 lines 8-27).

Each of the remaining documents D2-D8 discloses a cylindrical protection structure having at least two longitudinally cooperating semicylindrical segments which are placed or clamped around the cylindrical object to be protected (pipe, cable, etc.). The structure when assembled has a cylindrical cross-section having a chamber. Varieties of longitudinal engagement/locking means between semicylindrical parts, which provide a secure joint are disclosed. Structure can be made of insulating materials.

CLAIMS 1-12 – NOVELTY AND INVENTIVE STEP

In light of the previous observations claims 1-7, 9 and 10 clearly lack novelty.

Furthermore, appended claims 8, 11 and 12 relate to parameters or structures that are merely matters of design choice when the general technical knowledge about the state of the art is used and hence they cannot contribute to patentable invention. Therefore claims 8, 11 and 12, if not already disclosed in the above documents, lack an inventive step.

CLAIMS 1-12 – INDUSTRIAL APPLICABILITY

Invention defined in claims 1-12 is industrially applicable